

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re United States Patent Application of:****Applicant:** Peter Van Buskirk, et al.**Application No.:** 09/200,495**Date Filed:** November 25, 1998**Title:** OXIDATIVE TOP
ELECTRODE DEPOSITION
PROCESS, AND
MICROELECTRONIC
DEVICE STRUCTURE**Docket No.:** 2771-337 RCE (7482)**Examiner:** S. Hu**Art Group:** 2811#79
9-16-02
Payton**FACSIMILE TRANSMISSION CERTIFICATE****ATTN: SHOUXIANG HU****Fax No. (703) 746-3922**

I hereby certify that this document is being filed in the United States Patent and Trademark Office, via facsimile transmission to Commissioner for Patents, Box AF, Washington, D.C. 20231, on August 1, 2002, to United States Patent and Trademark Office facsimile transmission number (703) 746-3922.

Total Number of Pages: 21, including Supplemental Response (3 pages); Affidavit under 37 CFR §1.131 (16 pages); and Notice of Appeal (1 page/2 copies; 2 pages)

Steven J. Hultquist

August 1, 2002

Date

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**SUPPLEMENTAL RESPONSE TO FEBRUARY 5, 2002 OFFICE ACTION,
INCLUDING SUBMISSION OF AFFIDAVIT UNDER 37 C.F.R. §1.131 OF STEVEN J.
HULTQUIST, AND PETITION UNDER 37 C.F.R. §1.136
U.S. PATENT APPLICATION NO. 09/200,495**

SUBMISSION OF NOTICE OF APPEAL

Commissioner for Patents
Box AF
Washington, DC 20231

ATTN: Shouxiang Hu

Sir:

In response to the May 24, 2002 Advisory Action, and in supplemental response to the February 5, 2002 Office Action in the above-identified application, consistent with teleconferences with Examiner Shouxiang Hu, enclosed is an Affidavit under 37 C.F.R. § 1.131, of Steven J. Hultquist, providing documentary evidence and attesting to facts relating to the making of the claimed invention.

The enclosed Affidavit under 37 C.F.R. § 1.131 supplements the evidence presented in the Declaration under 37 C.F.R. § 1.131 filed in the application on May 6, 2002, and presents evidence of diligence by applicants, their attorney, and assignee, from a time prior to the effective date, July 29, 1998, of the cited primary reference Inoue, et al. U.S. Patent No. 6,300,212, to the date of filing of the instant application in the U.S. Patent and Trademark Office on November 25, 1998.

It therefore is requested that such Affidavit be entered to complete the record of the instant application, and to remove the Inoue et al. patent as an effective reference against the pending claims.

Consistent with the statement of Examiner Shouxiang Hu in the May 24, 2002 Advisory Action, the submission of this Affidavit under 37 C.F.R. § 1.131 resolves the remaining issue of patentability of the pending claims. It therefore is requested that the pending claims 40-55 and 61-63 be allowed.

Petition hereby is made under the provisions of 37 C.F.R. § 1.136 for a 3-month extension of time for this Supplemental Response to the February 5, 2002 Office Action, extending the deadline for reply to August 5, 2002. The amount of \$920.00 specified in 37 C.F.R. § 1.17(a)(3) for such extension of time, together with the fee of \$320.00 specified in 37 C.F.R. § 1.17(b) for the Notice of Appeal filed concurrently herewith, for a total of \$1,240.00, together with any other charge or fee properly payable for this response and/or the Notice of Appeal filed concurrently herewith, hereby is authorized to be charged to Deposit Account No. 08-3284 of Intellectual Property/Technology Law.

A Notice of Appeal is concurrently enclosed and submitted herewith for the Application, consistent with the undersigned attorney's prior discussion with the Examiner.

CONCLUSION

By the petition under 37 C.F.R. §1.136 set out above, the deadline for this supplemental response to the February 5, 2002 Office Action is extended to August 5, 2002.

The enclosed Affidavit under 37 C.F.R. §1.131 supplements the record and attests to facts and presents documentary evidence to remove Inoue et al. as a reference against the pending claims 40-55 and 61-63. Incident to such removal of Inoue et al., claims 40-55 and 61-63 are now in form and condition for allowance.

A Notice of Appeal is concurrently submitted herewith.

The Examiner on the basis of the enclosed Affidavit under 37 C.F.R. §1.131 is therefore respectfully requested to allow pending claims 40-55 and 61-63.

Respectfully Submitted,



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